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## CITY OF TEMPE REQUEST FOR COUNCIL ACTION

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Council Meeting Date: 7/30/2013  
Agenda Item: 5C6

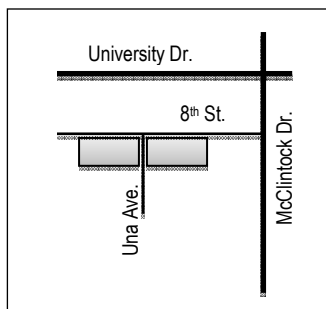
**ACTION:** Introduce and hold the first public hearing to adopt an ordinance for a Zoning Map Amendment from R1-6 to R1-PAD and a Planned Area Development Overlay consisting of two single-family residential lots for MARTINEZ RESIDENCE, located at 900 and 901 South Una Avenue. The applicant is Sender Associates, Chartered. The second and final public hearing is scheduled for August 22, 2013. (Ordinance No. 2013.44)

**FISCAL IMPACT:** While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

**RECOMMENDATION:** Adopt Ordinance No. 2013.44.  
Staff approval, subject to conditions  
Development Review Commission, approval (5-0 vote on 07/23/2013)

**BACKGROUND INFORMATION:** MARTINEZ RESIDENCE (PL120414) consisting of the development of a single-family residential home located on 900 South Una Avenue. The request includes the following:

ZON13006 Zoning Map Amendment from R1-6 to R1-PAD, Single-Family Residential District.  
PAD13008 Planned Area Development Overlay to establish the general development standards.



Property Owner	Justin Martinez (900 Una), City of Tempe (901 Una)
Applicant	Darin Sender, Sender Associates
Current Zoning District	R1-6, Single-Family Residential District & Tempe Historic Designated Property ( <i>a portion of 900 Una Ave. that includes the open ditch</i> )
Site Area	6,606 sf. (900 Una Ave.) 7,176 sf. (901 Una Ave.)
Total Building area	2,809 sf.
Lot Coverage	13.4 % (45% maximum allowed)
Building Height	28 ft (30 ft. maximum allowed)
Building Setbacks	+50' front, +6' side, 20' street side +30' rear (20' front, 5' side, 10' street side, 15' rear min. required)
Vehicle Parking	2 spaces in garage + driveway (2 min. required)

**ATTACHMENTS:** Ordinance, Development Project File

**STAFF CONTACT:** Lisa Collins, Interim Community Development Director, (480) 350-8989

Department Director: Lisa Collins, Interim Community Development Director  
Legal review by: Teresa Voss, Assistant City Attorney  
Prepared by: Ryan Levesque, Senior Planner

## COMMENTS:

The property sites are located along 8<sup>th</sup> Street at the southwest and southeast corners of Una Avenue and 8<sup>th</sup> Street. To the south of the sites are existing single-family homes, including the Borden Homes Historic District located south of Orange Street. Across 8<sup>th</sup> Street is the Creamery Public Park. Each respective property backs up to an alley adjacent to an apartment complex. Both properties have an SRP canal easement along the northern portions of the property (16' wide). 901 South Una Avenue canal is underground. The canal along 900 South Una Avenue is an exposed canal, which is listed on the City of Tempe's Historic Property Register List, known as the Kirkland-McKinney Ditch, which extends along a total of 4 parcels.

This request includes a request for a Zoning Map Amendment from R1-6 to R1-PAD, Single-Family Residential District and a Planned Area Development Overlay in order to establish the general development standards for the district. The owner intends to construct a single-family, 3-bedroom, home on 900 South Una Avenue. His intent is to reside on the property. If approved, the applicant can then proceed to submitting construction plans with Building Safety for the single-family home, pursuant to the development standards in the PAD.

## HISTORY

Dating back to 1871, the Kirkland McKinney Ditch is the earliest historic-era canal on the south side of the Salt River and an integral part of our community's settlement history. The City of Tempe, as property owners of the 900 South Una Ave. parcel, the Kirkland-McKinney Ditch was designated Historic and listed in the Tempe Historic Property Register, adopted by City Council on July 2, 2005. (Reference Doc: <http://www.tempe.gov/index.aspx?page=1690> ) It was described in that nomination as "a northern prolongation along 8<sup>th</sup> Street from Una Avenue Gary Drive" and was included in the designation along with three other privately owned parcels.

Subsequent to historic designation, the city decided to sell the remnant parcel, now addressed 900 South Una Avenue, to the prior owner of the adjacent residential lot at 902 South Una Ave to the south. The City had initially intended to sell the property for a nominal consideration with the obligation to tie the parcels together to 902 South Una and remain as an extended yard and open-space setting for the historic ditch. The initial sell of the parcel was not executed, and was later granted sale by the City Council to a new property owner at 902 South Una Ave. That parcel in 2007 was sold by the city at market value and with no restrictions specified. That owner eventually lost the home at 902 South Una Ave. through foreclosure, but still owned the parcel of land with the Historic Kirkland-McKinney Ditch. That property owner then sold the parcel at 900 South Una Ave to Justin Martinez in 2012 with the buyers intent to construct a single-family home.

Prior to closing on the property, Mr. Martinez met with City staff multiple times to discuss the purchase and intent for the property. After the closing, it was determined by the Zoning Administrator that the parcel could not automatically be developed on because the parcel did not conform to the minimum lot requirements of the R1-6 zoning district (60' min. width), as the property is approximately 47' feet wide. The property was not considered a legal lot of record and therefore could not be developed using the R1-6 zoning. The applicant filed an appeal of the Zoning Administrator's Decision to be heard by the Board of Adjustment. The applicant met with city management to explore all alternatives to the process. It was determined that Mr. Martinez could request an application for the R1-PAD zoning. This type of request requires the processing of more than one lot, in which the city as property owner authorized the neighboring parcel (901 South Una Ave.) to be included with the application zoning request. The city has no current plans, at this time, to develop or sell the land. At such time, City Council would need to make that determination through a separate ordinance process.

## PUBLIC INPUT

Mr. Martinez held a neighborhood meeting as required for zoning map amendments and planned area development overlays. The meeting was held on Saturday, June 22, 2013, 11 am at the Knights of Pythias building (located along Apache Blvd.). Staff was in attendance at the neighborhood meeting and answered general procedural questions, inquiries of why the city parcel was included in the request, and other past history. Mr. Martinez had several renderings of the project including a color site plan depicting the proposed plans to the community. See the attached summary provided by the applicant.

Prior to the neighborhood meeting staff received questions and comments from a few neighbors in the area, and specifically the adjacent property to the south of 900 South Una Avenue, who is in opposition to the request. Public comments are

included in the attachments of this report.

## PROJECT ANALYSIS

### ZONING

The properties are currently zoned R1-6, Single-Family Residential District. This zoning designation requires a minimum lot size of 6,000 sf. with a minimum lot width of 60 feet and a minimum lot length of 100 feet. The property, when annexed into the City was zoned for single-family residential, but was not part of a subdivision lot intended single home. The parcels, less than 50 feet in width, do not conform to the R1-6 standards

Section 6-304 C.2. Approval criteria for Zoning amendment:

1. *The proposed zoning amendment is in the public interest.* The rezoning of the property to the R1-PAD zoning will grant the property owner relief in the non-conforming standards of the zoning of the parcel and still allow the property meet typical setbacks, lot coverage and height requirements of the R1-6 district.
2. *The proposed zoning amendment conforms with and facilitates implementation of the General Plan.* The General Plan 2030 projected land use for this location is "Residential" with a projected density of up to 8 dwelling units per acre, which this zoning request is in conformance. The project will introduce another single-family home ownership opportunity in an area that has been trending development for multi-family.

### PLANNED AREA DEVELOPMENT

The R1-PAD requires the simultaneous processing of a Planned Development Overlay in order to establish the proposed general development standards, which may include site area, lot dimensions, height, lot coverage, setbacks and parking. This request proposes to retain all of the R1-6 zoning standards, except for the minimum lot width requirement. The widths of the two lots vary. The narrowest portion of the lot widths, located at the west end of 900 South Una Avenue, is approximately 46 feet wide.

8 <sup>TH</sup> STREET AND UNA AVENUE – PLANNED AREA DEVELOPMENT OVERLAY		
	Current R1-6 Standards	Proposed R1-PAD
Minimum Net Site Area	6,000 sf.	6,000 sf.
Minimum Lot Width	60 ft.	<b>44 ft. *</b>
Minimum Lot Length	100 ft.	100 ft.
Maximum Height	30 ft.	30 ft.
Maximum Lot Coverage	45%	45%
Setbacks:		
Front	20'	20'
Front – Open Structures	15'	15'
Street Side	10'	10'
Side	5'	5'
Rear	15'	15'

\* Development Standard modification from R1-6

Section 6-305 D. Approval criteria for P.A.D.:

1. *The proposed land uses (single-family residential) are allowable in Part 3.* The addition of new single-family residential will preserve boundaries of the existing single-family neighborhoods
2. *The development standards listed above, as established as part of the PAD Overlay District, as well as the standards allowed by use permit in Part 4 will be conformed to the development of this site.* The property will be in substantial conformance with the R1-6 standards consistent with adjoining neighborhood to the south. There are other substandard lot widths within the neighborhood, which enjoy the similar privileges that this property would be granted if approved.
3. *The proposed PAD is in conformance with provisions in Part 5, (Overlays);* The historic designation of the Kirkland McKinney Ditch will be preserved with this development. The property will preserve the existing open canal, in an effort with the Salt River Project (SRP) who maintains the canal, and restore the original south bank and remove evasive root structure of the bamboo which has eroded the canal edge, extending beyond the canal easement.

4. *The approval, subject to any conditions, is reasonable to ensure conformance with the provisions of the Zoning and Development Code.*

### **Conclusion**

Based on the information provided and the above analysis, staff recommends approval of the requested Zoning Map Amendment and Planned Area Development Overlay. The project is requesting to use the R1-PAD to establish the sites own lot parameters and setbacks. With the unique character of the design and consideration of the existing historic features on the site, such as restoration of the historically designated Kirkland-McKinney Ditch and preservation of the old Cottonwood tree, staff recommends approval of the project. This request meets the approval criteria and will conform to the conditions of approval.

### **REASONS FOR APPROVAL:**

1. The project meets the General Plan Projected Land Use and Projected Residential Density for this site.
2. The project will meet the development standards required under the Zoning and Development Code.
3. The PAD overlay process was specifically created to allow for greater flexibility, including allowance for minimum lot widths.
4. The proposed project meets the approval criteria for a Zoning Amendment and Planned Area Development Overlay.

### **CONDITIONS OF APPROVAL:**

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. A building permit application shall be made on or before August 22, 2015, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than September 21, 2013, or the zoning map amendment and PAD approval shall be null and void.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
4. The property shall maintain conformance with the R1-6, Single-Family Residential District development standards for building height, building setbacks and lot coverage.
5. Maintain the existing Cottonwood tree in front of 900 South Una Avenue. At such time the tree does not survive a new Cottonwood shall be installed within sixty (60) days of its demise.

## CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through [www.tempe.gov/zoning](http://www.tempe.gov/zoning) or purchase from Community Development.
- **BASIS OF BUILDING HEIGHT:** Measure height of buildings from top of curb at a point adjacent to the center of the front property line.
- **HISTORIC PRESERVATION:** State and federal laws apply to the discovery of features or artifacts during site excavation (typically, the discovery of human or associated funerary remains). Contact the Historic Preservation Officer with general questions. Where a discovery is made, contact the Arizona State Historical Museum for removal and repatriation of the items.
- **ENGINEERING:** 100 year onsite retention required for this property, coordinate design with requirements of the Engineering Division.

## HISTORY & FACTS:

ca. 1871	Irrigation canal formed
January 28, 1958	Properties annexed into Tempe (Ordinance No. 280)
February 6, 1958	B&H Subdivision recorded, consisting of 10 single-family lots (adjacent to the south of the sites)
Date unknown	Subdivision cul-de-sac abandoned dedicating portions of the canal as right-of-way and connecting Una Avenue to 8 <sup>th</sup> Street. This created the two remnant parcels that exist today.
March 23, 2000	City Council adopted Ordinance No. 2000.08, allowing the sale of the subject parcel located at 900 South Una Avenue. (Transaction expired)
July 2, 2005	City Council approved the historic designation of the Kirkland-McKinney Ditch, located along the south side of 8 <sup>th</sup> Street, extending from Una Avenue to Gary Drive.
June 28, 2007	City Council adopted Ordinance No. 2007.34, authorizing the conveyance of real property at 900 South Una Avenue. (Transaction completed)
August 24, 2012	Parcel at 900 South Una Avenue purchased by Justin Martinez.
June 22, 2013	Applicant held a neighborhood meeting on Saturday, 11 am. at the Knights of Pythias building.
July 11, 2013	Historic Preservation Commission reviewed this request as it relates to the compatibility of the historic designated Kirkland-McKinney Ditch. The Commission made a motion for approval of the single-family home proposal with the stipulation that a report be brought back to the Commission regarding the landscape replacement selection along the historic ditch (3-1 vote, motion failed).
July 23, 2013	Scheduled Development Review Commission hearing for this request.

July 30, 2013	Scheduled City Council introduction and first public hearing for this request.
August 22, 2013	Scheduled City Council second and final public hearing for this request.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map Amendment  
Section 6-305, Planned Area Development (PAD) Overlay districts